

1 BEFORE THE OHIO STATE BOARD OF COSMETOLOGY

2 - - -

3 IN THE MATTER OF:

4 BOARD MEETING

5 - - -

6 TRANSCRIPT OF PROCEEDINGS

7 - - -

8 STEVEN THOMPSON,  
Chairman, Presiding

9 - - -

10 Tuesday, August 12, 2014  
11 1:04 o'clock p.m.  
12 Ohio State Board of  
13 Cosmetology  
14 1929 Gateway Circle  
15 Grove City, Ohio 43123

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17 JILLIAN VOGEL,  
18 Professional Court Reporter

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22  
23 ANDERSON REPORTING SERVICES, INC.  
24 3242 West Henderson Road, Suite A  
25 Columbus, Ohio 43220  
(614) 326-0177  
FAX (614) 326-0214

1 APPEARANCES:

2 KEITH A. MCCARTHY, Attorney at Law  
3 Attorney General's Office  
4 30 East Broad Street, 26th Floor  
5 Columbus, Ohio 43125  
6 PH: 614-752-4332  
7 FX: 866-742-8015  
8 Keith.McCarthy@OhioAttorneyGeneral.gov

9 On behalf of The Ohio State Board of  
10 Cosmetology.

11 BOARD MEMBERS PRESENT:

12 Lori Pearson, Executive Director  
13 Steve Thompson, Chairman  
14 Thomas Taneff  
15 Valerie Benfer  
16 Luke Hanks  
17 Tasha Sheipline  
18 Charles Penzone  
19 Clara Osterhage

20 ALSO PRESENT:

21 Lori Flanery, Administrative Assistant  
22  
23  
24  
25

1 TUESDAY AFTERNOON SESSION  
2 August 12, 2014  
3 1:04 o'clock p.m.

4 - - -

5 P R O C E E D I N G S

6 - - -

7 BE IT REMEMBERED THAT, on the 12th day of August, 2014, this  
8 cause came on for hearing before Chairman Steven Thompson. And,  
9 the parties appearing in person and/or by counsel, as hereinafter  
10 set forth, the following proceedings were had:

11 - - -

12 CHAIRMAN THOMPSON: Good afternoon. I would like to call  
13 the 2014 -- August 2014 Ohio State Board of Cosmetology meeting  
14 to order.

15 Roll call, please.

16 MS. FLANERY: Dr. Gupta?

17 Mr. Hanks?

18 MR. HANKS: Here.

19 MS. FLANERY: Mr. Taneff?

20 MR. TANEFF: Here.

21 MS. FLANERY: Mr. Penzone?

22 MR. PENZONE: Here.

23 MS. FLANERY: Ms. Osterhage?

24 MS. OSTERHAGE: Here.

25 MS. FLANERY: Ms. Benfer?

MS. BENFER: Here.

1 MS. FLANERY: Ms. Sheipline?

2 MS. SHEIPLINE: Here.

3 MS. FLANERY: Mr. Thompson?

4 CHAIRMAN THOMPSON: Here.

5 I would ask all board members and guests to stand as we  
6 recite the Pledge of Allegiance to the flag of the United States  
7 of America.

8 (Pledge of Allegiance recited.)

9 CHAIRMAN THOMPSON: At this time I would ask if all board  
10 members have had a chance to review the minutes from the July  
11 meeting; and if so, do we have a motion for adoption?

12 MR. TANEFF: So moved.

13 MS. OSTERHAGE: Second.

14 CHAIRMAN THOMPSON: We have a first and a second. Any  
15 discussion?

16 Roll call, please.

17 MS. FLANERY: Mr. Hanks?

18 MR. HANKS: Yes.

19 MS. FLANERY: Mr. Taneff?

20 MR. TANEFF: Yes.

21 MS. FLANERY: Mr. Penzone?

22 MR. PENZONE: Yes.

23 MS. FLANERY: Ms. Osterhage?

24 MS. OSTERHAGE: Yes.

25 MS. FLANERY: Ms. Benfer?

1 MS. BENFER: Yes.

2 MS. FLANERY: Ms. Sheipline?

3 MS. SHEIPLINE: Yes.

4 MS. FLANERY: Mr. Thompson?

5 CHAIRMAN THOMPSON: Yes.

6 At this time I would ask for our Executive Director's  
7 report.

8 MS. PEARSON: Good afternoon, members of the Board. We are  
9 currently working on creating the rules for the online tanning  
10 certification testing. As you remember the Board voted to allow  
11 online tanning certification tests to be taken at a proctored  
12 location a couple months back; therefore, rules must be put in  
13 place prior to the start of the next renewal cycle. And that  
14 cycle will begin February 1st, 2015.

15 And that is when continuing education classes and all those  
16 certification classes will need to go through the renewal process  
17 and gain approval. So we will need to have that information in  
18 place for those providers. We'll be sending these rules to the  
19 interested parties and to you for review.

20 The public comment portion will need to be open for ten  
21 days. And to stay on track with the implementation, we will need  
22 to have these rules hopefully ready for a vote in September, as  
23 they need to go through the full rule process.

24 Our new hearing officer, Ronda Shamansky, will begin this  
25 month with hearings scheduled for August, the 21st.

1           And new schools are continuing to be on the rise with two  
2 new career technical programs opening this month -- at the end of  
3 the month. Three more private schools are in the process of  
4 getting their schools approved for opening probably in September.

5           There's a board member training session scheduled for  
6 September 9th at 2:00 p.m. We will also hold a short board  
7 meeting prior to that training at our regularly scheduled  
8 1:00 p.m. time on that day.

9           CHAIRMAN THOMPSON: Thank you.

10           This is the part of our meeting where it's open for public  
11 testimony. Anyone may approach the podium for three minutes if  
12 they would like to approach the Board. I have a sign-in sheet  
13 here, and I don't see anyone signed in requesting to speak. I'll  
14 ask one more time. Is anyone requesting to speak?

15           Come right on up here, please. Please introduce yourself  
16 and where you're from.

17           MS. YOUBI: My name is Elvire Youbi, and I'm here on behalf  
18 of my African hair braiding salon.

19           CHAIRMAN THOMPSON: What's your first name again?

20           MS. YOUBI: Elvire.

21           CHAIRMAN THOMPSON: Can you spell that?

22           MS. YOUBI: E-l-v-i-r-e.

23           MR. TANEFF: Do you have a card?

24           MS. YOUBI: No. I'm sorry. I speak French.

25           CHAIRMAN THOMPSON: Could I have you sign the sign-in sheet,

1 here, real quickly, please.

2 MS. YOUBI: Sure.

3 CHAIRMAN THOMPSON: I'm going to recite your name for the  
4 record. It's E-l-v-i-r-e. And the last name is Y-o-u-b-i.  
5 Thank you.

6 MS. YOUBI: I'm here today because I have a situation that  
7 is very difficult for me. I have a shop and I have a problem to  
8 have the braiders qualify with the natural hair care license.  
9 And every time I try to get people ready -- qualified that can do  
10 the right job -- and I could have some people who have, like, a  
11 license from their respective country who can do the job, but  
12 some of them doesn't know how to read or to write to be able to  
13 pass the test.

14 So I'm here today to kind of see -- I know it's the law. I  
15 cannot make you change the law, but I want to see if it's  
16 possible to make it flexible for people, at least have a -- offer  
17 like a license from their country to maybe transfer or doing like  
18 a practice test to be able to braid, because a lot of them could  
19 do it in their house when you could not check them. They will do  
20 it in their house, or a lot of people will have the same shop and  
21 will not do the right thing. And when you do the right thing by  
22 register, you cannot have the right braiders.

23 I came to Ohio from Maryland, and I got that shop without  
24 knowing that here the license was required, because in Maryland  
25 for natural hair care, a license wasn't required.

1           So when I found out, I have to go back to school and get my  
2 cosmetology license because I wanted to protect my shop. But I  
3 cannot find anybody willing to do that job because it's a very  
4 difficult job. It takes you around 8 to 12 hours to do it. It's  
5 very physical, and people doesn't want to do it. So I'm here to  
6 see how the Board would help me to make -- to help me to make the  
7 things right.

8           CHAIRMAN THOMPSON: Where are you from again? Here in Ohio?  
9 Where are you working at in Ohio?

10          MS. YOUBI: On Main Street.

11          CHAIRMAN THOMPSON: Here in Columbus?

12          MS. YOUBI: Yes.

13          MR. PENZONE: Ms. Youbi, how would you propose it be -- what  
14 would you propose it would be changed to? I mean, what do you  
15 think it should be like?

16          MS. YOUBI: First of all, the program that we have is --  
17 even when you have a client, one that come in the shop, when it's  
18 African hair braiding, most of the time they want it to be done  
19 by African people, because that's one of the things that is  
20 just -- they want to do the right thing.

21          Myself, I have to go back twice in a different country in  
22 Africa to get more training to be able to do -- to provide the  
23 best that I can. So -- and what I'm asking is that most of them  
24 in Africa, braiding is not like here that you need a GED to go to  
25 school. Like I need to provide a GED to go back to cosmetology



1 school. Most of the time is people who didn't go to school who  
2 have to do the skilled jobs. So when they come here, they can  
3 speak; but they can't read and write. But they can do a good  
4 job.

5 I have some pictures with me. If you want, you could see  
6 whatever they are capable of doing. And I know, to do the --  
7 pass the test, you need to be able to read and write. But I know  
8 they could do the practice, and they have done like a  
9 practice sheet -- I don't know if that's how they call it.

10 Like for more than two years and plus -- And they own those  
11 licenses from their respective country because they're from  
12 different countries, not just one country. But they cannot  
13 practice here in Ohio because of the law of Ohio. And I know  
14 that if they make the law more flexible, they could pay the fees  
15 to get the license and do the right things. And all the shops  
16 do -- are not even registered now because they are afraid of that  
17 register, and everybody could do the things right.

18 MR. PENZONE: You would suggest that if they come with some  
19 type of training or background from another country, they should  
20 be able to set up shop here, correct?

21 MS. YOUBI: No. At least to do the test here, like do maybe  
22 the practice test because we don't use chemicals. It's just  
23 natural hair care. At least if the owner is able to have the  
24 license for -- the cosmetology license, I could handle all the  
25 people who just have like the natural hair license. I don't know

1 if I make myself --

2 MR. PENZONE: Do you have a license from the State  
3 currently?

4 MS. YOUBI: I have a license from Maryland.

5 MR. PENZONE: But not an Ohio state license?

6 MS. YOUBI: No. But I was supposed to go to school here,  
7 and I registered to go to school. I was pregnant and they told  
8 me that they could not take me; and after, I found out my  
9 daughter was autistic. So I have to go to Maryland that period  
10 of time to help her with the therapy. So I have to go to school  
11 there instead of going here, but I can transfer my license from  
12 there.

13 MR. PENZONE: But do you have a salon on Main Street now?

14 MS. YOUBI: Yes.

15 MR. PENZONE: Under a Maryland license, I take it?

16 MS. YOUBI: Yes.

17 MR. PENZONE: Okay.

18 MS. YOUBI: But it's a cosmetology license; and I own a  
19 natural hair license, which is normally more hours than -- more  
20 than natural hair care.

21 CHAIRMAN THOMPSON: How many Ohio licensees do you have in  
22 there?

23 MS. YOUBI: How many hours?

24 CHAIRMAN THOMPSON: No. How many people working with an  
25 Ohio license?

1 MS. YOUBI: Just two.

2 CHAIRMAN THOMPSON: Cosmetology license?

3 MS. YOUBI: Yes.

4 MR. PENZONE: What's the name of your salon?

5 MS. YOUBI: Dominique Hair Braiding.

6 MR. PENZONE: Dominique?

7 MS. YOUBI: Dominique.

8 MR. PENZONE: Okay.

9 CHAIRMAN THOMPSON: Any other --

10 MR. HANKS: I would just add that you're not the first  
11 person to present some of those same concerns. And we have tried  
12 very hard to address those concerns, but it is a difficult  
13 situation. We can't have one set of rules -- or the Ohio  
14 legislature can't have one set of laws that applies to people  
15 that are meeting this set of criteria versus people meeting that  
16 set of criteria. We have to operate within the same set of laws  
17 and rules for everyone, and that makes these situations very  
18 difficult.

19 I think we all are sympathetic; but to date, we've not come  
20 up with an answer that I think you would be satisfied with. And  
21 we will continue to work in that direction, but I think it's  
22 going to be very challenging for you and for us for a while.

23 MR. PENZONE: And I would like to add as well, Ms. Youbi,  
24 this Board can't -- doesn't have the power to make the change  
25 that you would like to see happen. It would be a legislative

1 change, and I don't know if you understand how that process  
2 works.

3 There's a group of men that -- congressmen and senators in  
4 the state that have to pass certain legislation. This would be a  
5 legislative change, correct?

6 MS. PEARSON: Correct.

7 MR. PENZONE: And we don't have -- we don't have the power  
8 to make that happen. And as Member Hanks mentioned, we've tried  
9 to address this issue. I have been here 16 years, and it's been  
10 an issue for the 16 years I have been here. I think if we were  
11 to vote today, there would be some very mixed opinions on this  
12 Board as to what it should be like.

13 But we don't have the power to make a change for you. If we  
14 could, we probably would try desperately to do that. But there  
15 is some legislation currently that is addressing some of these  
16 issues that's in the House of Representatives or is going to be  
17 introduced very soon.

18 I don't know, you know, what will happen there; but -- I  
19 don't know if it will help you or not. But we don't have the  
20 power to --

21 CHAIRMAN THOMPSON: We don't have the power to grant a  
22 waiver or to make exceptions for individuals on this. Also, I  
23 mean, there's things that we can do and things we can't do. And  
24 this is one that we can't do. Like Board Member Penzone says, it  
25 takes a legislative change through the Ohio Congress and

1 eventually signed by the Governor of Ohio. That's the only  
2 avenue to get done what you want done.

3 MS. YOUBI: So what's the law now want us to do? Like what  
4 is the normal things to do? Now is to have them go back to  
5 school, to have anyone who want to do the braids to go back to  
6 school --

7 MS. OSTERHAGE: May I ask a question?

8 MS. YOUBI: Yeah.

9 MS. OSTERHAGE: What services are you providing in your  
10 salon?

11 MS. YOUBI: Just braiding.

12 MS. OSTERHAGE: Just braiding?

13 MS. YOUBI: Yes.

14 MS. OSTERHAGE: And there is not a braider's license, so  
15 they would be subject to the natural hair license?

16 MS. YOUBI: That's what I have, the natural hair license  
17 because I'm registered in Maryland.

18 CHAIRMAN THOMPSON: You have a natural hair license in  
19 Maryland, right?

20 MS. YOUBI: In Ohio.

21 CHAIRMAN THOMPSON: Oh, in Ohio.

22 MS. YOUBI: Yeah.

23 CHAIRMAN THOMPSON: You have one personal license, not the  
24 salon license?

25 MS. YOUBI: The salon license is from Ohio.

1 CHAIRMAN THOMPSON: But you --

2 MS. YOUBI: My license is not a natural hair -- it's a  
3 cosmetology license. I have 1,500 hours and I passed my state  
4 board license.

5 CHAIRMAN THOMPSON: From Maryland?

6 MS. YOUBI: Yes. But I'm willing to transfer here. I told  
7 you the reason why I did that. I was registered in school here.  
8 That I can prove to you; but because I was pregnant in  
9 Winchester, they didn't let me go to school. And because I have  
10 a situation with my daughter -- while I was taking care of her, I  
11 choose to go to school there.

12 I don't have a shop there. I just know it's the same  
13 country. I could get the license there and then come back here  
14 and see how I could transfer the Ohio license, but the problem  
15 that I have right now is where can I get people who have the  
16 natural hair license? I would like to hire them; but I don't see  
17 any, and I don't know where to get them.

18 CHAIRMAN THOMPSON: I think it's -- A challenge with any  
19 business is employment, is finding people, you know. Employees  
20 are always the challenge to any business. I mean, we have a --  
21 we have a database here that, you know, that you can -- that's  
22 public records.

23 We just talked about this the other day, though. Is it --

24 MS. PEARSON: DAS --

25 CHAIRMAN THOMPSON: DAS.

1 MS. PEARSON: -- for a complete listing.

2 MS. SHEIPLINE: Did you say you needed to go back to school  
3 in Ohio? Because you are licensed in Maryland, correct?

4 MS. YOUBI: Yeah, but I have the 1500 hours. So I have been  
5 back to get the natural hair license, and I have more hours to  
6 transfer here.

7 MS. PEARSON: So you want to use your 1500 hour cosmetology  
8 license to transfer here, not for cosmetology, for natural hair.  
9 Is that --

10 MS. YOUBI: For now I do natural hair care. I don't do --

11 MS. PEARSON: Because you can do natural hair care under a  
12 cosmetology license. So if you transfer your license to Ohio and  
13 tested for cosmetology here, you would be licensed to provide  
14 your braiding services under that license.

15 MS. YOUBI: Okay.

16 MS. PEARSON: And it wouldn't require going back to school.  
17 It would just require taking the test.

18 MS. YOUBI: Okay.

19 CHAIRMAN THOMPSON: You wouldn't have to take the test -- or  
20 go back to school here in Ohio. If you can show that you have a  
21 Maryland license and completed the schooling in Maryland, you are  
22 eligible to take our Ohio test. You don't have to go back to  
23 school.

24 MS. YOUBI: Okay.

25 CHAIRMAN THOMPSON: Does that make sense?

1 MS. YOUBI: Yes.

2 CHAIRMAN THOMPSON: And like Director Pearson was saying,  
3 with the cosmetology license, you can do everything a natural  
4 hair dresser -- a natural hair license can do plus esthetics and  
5 manicuring and all that. The cosmetology license kind of  
6 blankets all the services.

7 MS. YOUBI: My cosmetology license is just natural hair  
8 care, which means I --

9 CHAIRMAN THOMPSON: We could probably switch that out to a  
10 cosmetology license.

11 MS. PEARSON: Your salon license is a natural hair braiding  
12 salon?

13 MS. YOUBI: Yeah, that's all I do.

14 CHAIRMAN THOMPSON: That probably needs to be a cosmetology  
15 license.

16 MS. PEARSON: That would fall in -- there would have to be a  
17 managing cosmetologist on duty. She would have to have a  
18 managing natural hair stylist on duty for the natural hair  
19 styling salon license. So you would have to have your salon  
20 license after cosmetology as long as -- if you had a manager's  
21 license to be in compliance.

22 CHAIRMAN THOMPSON: Director Pearson --

23 MS. PEARSON: But --

24 CHAIRMAN THOMPSON: -- go ahead.

25 MS. PEARSON: I was going to say we could have a staff



1 member explain the logistics to her for the different -- how to  
2 get the license and information.

3 CHAIRMAN THOMPSON: Okay.

4 MR. PENZONE: I just have a question: Ms. Youbi, what  
5 prompted your visit here today? Have you been inspected  
6 recently, or you said you're having trouble with people not being  
7 licensed working in your establishment. Is it --

8 MS. YOUBI: No. I think it's hard for me to get people with  
9 the license.

10 MR. PENZONE: To find someone with a natural hair  
11 braiding -- how many do we have in Ohio? I mean, there's a  
12 number that you can come up with that might help her.

13 MS. OSTERHAGE: It was 40-some, isn't it?

14 MS. PEARSON: It was 40-some last year.

15 MR. PENZONE: Yeah. There are not a lot around with a  
16 license.

17 CHAIRMAN THOMPSON: But there's probably some cosmetologists  
18 around.

19 MS. YOUBI: I tried. They will not do the braids, because  
20 it's more easy to style and cut hair than to braid. They don't  
21 want to. I tried so many, and they would just stay for a day and  
22 then not come back the next day.

23 CHAIRMAN THOMPSON: Okay. Any further questions?

24 Just to reiterate that we -- there's nothing that we can do  
25 as a Board here today. We can -- like Mr. Penzone said, if there

1 was something that we could do, we would have probably done it.  
2 We would have probably done it before.

3 I have been here for 10 years, 11 years now. You're not the  
4 hundredth person that's come in here and said this, talked to us  
5 like this. You're probably the 50th. But until there's a  
6 legislative change, I don't think there's -- I know there's  
7 nothing that this Board can do with the situation.

8 MS. YOUBI: Okay.

9 CHAIRMAN THOMPSON: Why don't you -- do you have one of the  
10 girls -- okay.

11 Kyra will get your information, and she'll work with you and  
12 see what we could do. It sounds like one of the things you need  
13 to do, first of all, is get your license here in Ohio. If I can  
14 give you one piece of advice here today, is get your Ohio  
15 license, because without that I think it's just going to be more  
16 problems. Okay.

17 MS. OSTERHAGE: Thank you for coming.

18 MS. YOUBI: Thank you.

19 CHAIRMAN THOMPSON: Okay. Committee reports -- or any other  
20 public testimony? I'm sorry. Anybody else from the public?  
21 Okay. Seeing none.

22 Committee reports. Member Sheipline?

23 MS. SHEIPLINE: The curriculum review committee met today,  
24 and we looked over the natural hair care licenses vics just now  
25 and made some changes there. We also took a vote on the changes

1 that we made to the manicuring curriculum at the last meeting.

2 So I'm assuming the next official board meeting that we will  
3 have we would have the manicuring piece ready for vote. And then  
4 our next curriculum meeting we will be -- our committee will be  
5 voting on the natural hair care curriculum there.

6 We started on the managers but never got very far. We  
7 tabled that until the next meeting so that we could make some  
8 changes and perhaps add some people to that committee and relook  
9 at that. So we will meet again October -- excuse me,  
10 October 14th at 10:00.

11 CHAIRMAN THOMPSON: That will be for the managers?

12 MS. SHEIPLINE: That will be for the managers and then the  
13 vote on the natural hair care.

14 CHAIRMAN THOMPSON: Any other committee reports?

15 Legislative updates? Director Pearson, do you have any  
16 legislative updates?

17 MS. PEARSON: I do not.

18 MS. OSTERHAGE: If I could just ask a question, Mr. Chairman  
19 Thompson, it's not specifically legislation; but it sort of is.  
20 I'm wondering, do we have any information about the appointment  
21 of an executive director or an additional board member to the  
22 Board?

23 CHAIRMAN THOMPSON: I haven't heard anything.

24 MS. OSTERHAGE: Can you maybe call and see what you can find  
25 out? Because it's -- it's been, we're probably going on a year

1 for you, Lori.

2 MS. PEARSON: Tomorrow.

3 MS. OSTERHAGE: Tomorrow. Happy anniversary.

4 (Applauding)

5 MS. OSTERHAGE: That's a really long time.

6 CHAIRMAN THOMPSON: Yeah.

7 MS. OSTERHAGE: And it seems to me that maybe it would be  
8 very appropriate for you to call.

9 CHAIRMAN THOMPSON: So you want me to make a call down to  
10 the 30th floor?

11 MS. OSTERHAGE: Oh, I don't care where you call. It just  
12 seems that there needs to be -- I don't know anything about that.  
13 But I feel like that's a really long time for someone to be  
14 responsible for the entire Board, and knowing that there's  
15 potentially someone looking at an appointment and we have been  
16 without a board member now for several months. It'll be a year  
17 this fall, right?

18 MS. PEARSON: October.

19 MS. OSTERHAGE: So it would be good to get maybe an update  
20 on that.

21 CHAIRMAN THOMPSON: All right.

22 Let move into unfinished business. The first item is  
23 4713-5-17. You want to talk about these two together, -5 and -20  
24 together?

25 MS. PEARSON: Actually separate would be best.

1 CHAIRMAN THOMPSON: Okay. I'm going to let Director Pearson  
2 and Board Member Hanks --

3 MS. PEARSON: 4713-5-7, Licensed Instructor on Premises.  
4 This is the rule that Member Hanks had brought up, I believe, in  
5 April. We may have a conflict in letter (A) with our revised  
6 code. So looking at that language, we tried to make some  
7 language adjustments to (A) to clarify that. Although it states  
8 that an instructor -- you must have an instructor's license to  
9 teach in a school of cosmetology in Ohio, there are other  
10 provisions that allow for somebody with a bachelor's degree to  
11 teach or with a teaching certificate or somebody with some  
12 particular knowledge in a subject area.

13 So we have been working on making -- that was 5-17 just to  
14 be clear -- So we're working on making some language changes to  
15 make sure that it is clear and not in conflict with the revised  
16 code. So our suggestion was to add specific language that talked  
17 about when they were instructing procedures of cosmetology or the  
18 theory practice of cosmetology. That was the last information  
19 that was sent out.

20 And then I had some feedback from Member Hanks still feeling  
21 that it does not quite get it with the language. So we looked  
22 back at previous language before there were any rule changes  
23 made. In November of 2012 is actually when the majority of these  
24 rules were voted on by this Board. And so the second rule on the  
25 page, where it says "previous language," is actually the language

1 prior to any changes being made. And Member Hanks felt that this  
2 had really captured -- what we were trying to get now was already  
3 said previously.

4 Member Hanks, do you have more?

5 MR. HANKS: Well, I don't know that I would say the proposed  
6 language doesn't get it. I think it's very close. And if you  
7 recall, Mr. Yearwood spoke last month; and it kind of opened my  
8 eyes to it's close, but it leaves some exposure if somebody chose  
9 to go down that path. And I would like to put us in the best  
10 possible situation so that there is no conflict between the rule  
11 and the law and reading back -- I don't understand necessarily  
12 why it was changed.

13 I think what we had before worked. I think it's  
14 appropriate. I think if we moved back in that direction  
15 everybody's concerns would be addressed. And we would -- I would  
16 feel safer for us as a Board with the previous language.

17 MR. PENZONE: You prefer the previous?

18 MR. HANKS: Yeah.

19 MS. OSTERHAGE: Chairman Thompson, do you have the Ohio  
20 Revised Code for us to look at, or can you read it to us?  
21 Because it's -- we're referencing the Ohio Revised Code, and I  
22 know in the minutes -- I'm reading where Mr. Yearwood talked  
23 about -- and he sort of paraphrased the statute, talking about  
24 the intent of the statute is to allow an expert to teach alone in  
25 a theory class setting, which is very specific. So if that's

1 what the statute says, I think we need to know that. And I think  
2 that needs to be looked at before we work on clarifying this.

3 The previous language alludes to quote/unquote board  
4 licensed instructors, and I'm assuming that's referencing people  
5 who are the experts that Mr. Yearwood referred to. So math,  
6 right? Some of the other subjects; is that correct? Because  
7 that looks to me -- it's hard picking this apart. It appears to  
8 me as though that's what's missing.

9 MS. PEARSON: The board licensed instructors would be  
10 cosmetology instructors licensed by this Board. Where it states  
11 that -- let's see.

12 MS. OSTERHAGE: I guess, where's the conflict?

13 MS. PEARSON: "The instructors counting toward student  
14 ratios shall be qualified to teach those students present." And  
15 then it also states, "appropriately licensed instructors shall  
16 present when assigned."

17 So if somebody has a bachelor's degree and they're teaching  
18 a math class and that math class is going toward the cosmetology  
19 program, they would be appropriately licensed and experienced to  
20 teach that portion.

21 MS. OSTERHAGE: But they're not appropriately licensed  
22 instructors. I think that's why this was brought for -- I mean,  
23 back in the day, sub-February, sub-November --

24 MS. PEARSON: It was November 2012.

25 MS. OSTERHAGE: I think that's -- why that discussion was

1 had was because it talked about these board licensed instructors  
2 in quotations. And then it goes on to talk about people --  
3 appropriately licensed instructors. So there was no clarity in  
4 terms of what it was that they were -- like how they were  
5 licensed.

6 So there will be people teaching in different settings --  
7 school settings that are not necessarily licensed by the State  
8 Board of Cosmetology but hold some educational background or  
9 degree that allows them to teach and be an expert in some subject  
10 matter.

11 So my suggestion would be going -- I'd like to see the part  
12 of the Ohio Revised Code instead of just what Mr. Yearwood  
13 paraphrased in the minutes. Maybe have that -- and not to delay  
14 this a whole lot, but I think we want to make sure we get it  
15 right because this flip-flopping is not a good idea. I mean, we  
16 approved it; and now we're questioning what we approved.

17 MR. HANKS: I am absolutely, because you asked where the  
18 conflict is. If you look at the top of this page, 4713-5-17, and  
19 read (A) stand alone, that prohibits me as an individual with a  
20 finance degree from going into one of the Ohio schools and  
21 teaching a class on finance. It would prevent anybody in that  
22 situation because it says, "Only an instructor with a license  
23 issued by the Board may instruct students in an Ohio school of  
24 cosmetology." That can't be.

25 MS. OSTERHAGE: However, the structure of the way it's



1 written, letter (C) has equal weight to letter (A), which goes on  
2 to say, "Schools may count a state-credentialed teacher in math,  
3 English and/or science as a" --

4 MR. HANKS: Which is very specific to vocational schools.

5 MS. OSTERHAGE: -- but wait. Hold on, please.

6 -- "as a board licensed instructor," which goes back and  
7 supports letter (A).

8 MR. HANKS: Correct me -- well --

9 MS. OSTERHAGE: Do you see what I'm saying?

10 MR. HANKS: I see what you're saying, but I think you're  
11 interpreting it different. Letter (C) is about vocational  
12 schools.

13 MS. OSTERHAGE: Well, not necessarily. The example  
14 Mr. Yearwood gave us last month was you with your degree in  
15 finance could teach a finance class in school.

16 MR. HANKS: But is that a state credential? I don't --

17 MS. OSTERHAGE: According to this rule, which was said to  
18 promulgate the law --

19 MS. FLANERY: Do you want me to read --

20 MS. OSTERHAGE: Yes, that would be good. Lori is going to  
21 read it for us.

22 MS. FLANERY: This is 4713.45: "A school of cosmetology  
23 shall have a licensed cosmetology instructor present when a  
24 person employed, pursuant to division (A)(4) of this section,  
25 teaches at the school unless the person is one of the following:

1 (1) A person with a current valid teacher's certificate or  
2 educator license issued by the state board of education. (2) A  
3 person with a bachelor's degree in the subject the person teaches  
4 at the school. (3) A person also employed by a university or  
5 college to teach the subject the person teaches at the school."

6 MR. HANKS: And (A) is not in harmony with that.

7 MS. OSTERHAGE: Well -- so I don't want to trip over a tiny  
8 structural sentence or paragraph structural content, but I think  
9 (A) and (C) -- (C) goes back and says that people with those  
10 credentials in math, English or science are a board licensed  
11 instructor when they are teaching those areas. And (A)  
12 references only an instructor with a license issued by the Board.  
13 So they support one another. It probably just needs to be  
14 wordsmithed would be my -- I don't think we're -- I'm not  
15 disagreeing with you. It just probably needs to be wordsmithed.

16 MR. HANKS: So you're saying that we should only be able to  
17 teach math, English, and/or science in addition to cosmetology.  
18 What about insurance? What about taxes? You know, state  
19 credential is very specific to the vocational schools. And I  
20 don't see where someone with a finance degree or somebody that's  
21 an expert with insurance is not excluded the way the rule reads  
22 at the time.

23 MS. OSTERHAGE: So maybe it's the addition of some language  
24 and some wordsmithing. I think that's what it is, as opposed  
25 to --

1 MR. HANKS: It could be. That's where this all started.

2 MS. OSTERHAGE: Because if we go back to the old language --  
3 the previous language, the word "board" in quotation marks --  
4 board-licensed instructors, I think that's what we were -- that  
5 was -- the whole genesis of the rule change was that was  
6 confusing, and it was not consistent with the rest of the rules.

7 MS. PEARSON: The previous --

8 MR. HANKS: But the rules --

9 MS. PEARSON: Would take some cleanup with the quotations  
10 and all that.

11 MS. OSTERHAGE: Exactly.

12 MS. PEARSON: That is definitely to mirror what has been  
13 happening throughout the code now. So I do think there would  
14 need to be a little cleanup.

15 It's just that the gist of -- because it actually -- you  
16 know, in (C) it talks about when they're teaching those areas of  
17 cosmetology related to, so that would be your other subjects.  
18 And actually, if a branch of cosmetology would be -- kind of like  
19 teaching the core of cosmetology, the practical hands-on, the  
20 actual theory of cosmetology must be taught by a licensed --  
21 board-licensed instructor; but related to the topics of business,  
22 insurance, math, science and such could be taught by somebody  
23 holding a degree or certificate or different things of that  
24 nature with their experience.

25 MR. PENZONE: Are instructors required to have a manager's

1 license in their given discipline?

2 MS. PEARSON: An instructor is required to have a managing  
3 license that is current and active when they apply for the  
4 initial application for their instructor's license. If they are  
5 only teaching -- when an inspector goes in to inspect that  
6 school, they're going to look for their current, active  
7 instructor's license to be hanging in the school. If they're  
8 working in a salon along with the school, they would have their  
9 managing license in the salon.

10 MR. PENZONE: They don't have to maintain a manager's  
11 license as an instructor?

12 MS. PEARSON: They do now according to 4713-5-20. That is a  
13 new rule that went into effect in February. I spoke a little bit  
14 about that last month. That rule states that an instructor must  
15 maintain their managing license in good standing along with their  
16 instructor's license.

17 MR. PENZONE: Okay. We've passed the -- I mean, we approved  
18 this verbiage in a previous --

19 MS. PEARSON: At the board meeting in November 2012, this  
20 rule 5-17 and 5-20 were in a package of rules. They were voted  
21 on and passed.

22 MS. OSTERHAGE: It was 2013, wasn't it?

23 MS. PEARSON: 2012. Ms. Flanery looked it up yesterday.

24 MS. OSTERHAGE: So they didn't go into effect until February  
25 of this year?

1 MS. PEARSON: Correct. Because after the vote, it still had  
2 the CSI process and all of the process to go through.

3 MR. PENZONE: You weren't here then, were you?

4 MR. HANKS: You and I were February 2013.

5 MR. HANKS: I do agree we want to get this right. I don't  
6 think, as I said, we're horribly exposed. I think you've gotten  
7 somewhat of an opinion from Mr. McCarthy that it's weak, but it's  
8 manageable the way it's written. I just don't like the thought  
9 of having something weak. Let's fix it.

10 I don't think it's something that is critical that we have  
11 that happen today. I want everyone to feel comfortable with  
12 where we head with this. But I think it needs to be addressed,  
13 and right now I feel pretty exposed.

14 MR. PENZONE: Do you think we can tweak this over in the  
15 next month and then come up with something that might --

16 MR. HANKS: Yeah.

17 CHAIRMAN THOMPSON: I think we should. I think we're really  
18 close on this.

19 MS. SHEIPLINE: Would it benefit us to -- I would agree with  
20 Luke where it says a state-credentialed teacher. If you don't  
21 have a state teaching license from the Ohio Department of  
22 Education, then you wouldn't qualify under that piece; whereas  
23 the Revised Code did specifically say -- was it bachelor's  
24 degree? And there was something else.

25 Maybe we should include if they have a bachelor's degree or

1 they have an education or a certification in a specific area that  
2 that person might, you know, be more of what would be considered  
3 an expert in that area versus somebody who just has a teaching  
4 degree, you know, in that particular area. You're right. You're  
5 not going to always have a teaching degree in taxation if that's  
6 what they're coming in to talk about.

7 So I think maybe we should look at the Revised Code, too,  
8 and kind of reflect some of that language instead of just  
9 state-credentialed teacher.

10 MS. OSTERHAGE: I agree.

11 CHAIRMAN THOMPSON: Would you like to table this item till  
12 next month?

13 MR. HANKS: We don't need a motion for that.

14 CHAIRMAN THOMPSON: Okay. We'll table 4713-5-17 until  
15 October.

16 Okay. Next item under unfinished business is 4713-13-02.  
17 This was --

18 MR. PENZONE: Excuse me. We're talking about a month from  
19 now. That would be September.

20 CHAIRMAN THOMPSON: We have our training.

21 MR. HANKS: Well, we're doing a short meeting in September.  
22 So we may be able to address this next month.

23 CHAIRMAN THOMPSON: We'll try to bring it back for  
24 September. Okay.

25 We'll move on to 4713-13-02. This is about the independent

1 contractors. We tabled this from last month with some concerns  
2 about (B)(1),(2),(3). And there were some questions on removing  
3 especially (2) and (3). And after I thought about this some  
4 more, I had Director Pearson send out an email to all the board  
5 members saying, you know, I think these two lines here just have  
6 good information for the independent contractor.

7 Like I said before, it mentions about who's responsible for  
8 taxes and withholdings; and the State Board has never tried to or  
9 wanted to be working with the Department of Taxation. I just  
10 thinks it's good information. I think it's harmless information  
11 in there. I know everybody probably won't see it this way, but I  
12 know the independent contractors embarrassingly have had lots of  
13 violations. And everybody had said to me, being the independent  
14 contractor on this Board, you've got to reach out somehow and --  
15 or this Board needs to reach out and communicate with the  
16 independent contractors. And I thought in this way here was a  
17 great way of reaching out with them, so -- and just giving them  
18 some of that information they didn't know.

19 MS. OSTERHAGE: Just a couple comments because -- and I know  
20 you probably would anticipate a comment from me.

21 CHAIRMAN THOMPSON: No, never.

22 MS. OSTERHAGE: Well, under (2)(a), it says, "The agreement  
23 shall state the following information. That probably should say,  
24 "include the following information," as opposed to stipulating  
25 what's in it. That would be my suggestion to you.

1 I still feel pretty strongly, and I'd love to hear what the  
2 AAG has to say about it -- does it put this Board in a place  
3 because we don't have jurisdiction over taxing, workers'  
4 compensation, et cetera?

5 MR. MCCARTHY: We should tread very, very carefully in any  
6 endeavor in this statute that Ohio sets forth what an independent  
7 contractor is. We do not give tax advice. We do not give legal  
8 advice to licensees.

9 But to address the desires of the Board maybe, could certain  
10 items be given as a service to assist independent contractors,  
11 provide some clarity maybe. But before the Board considers  
12 delving into putting such information into admin code, the Board  
13 better have everything correctly right. I mean, it's got to be  
14 exact.

15 MS. OSTERHAGE: One of the things that I thought about under  
16 the small letter l -- or (i), I'm sorry -- it says, "The  
17 independent contractor controls the hours and conditions of work  
18 of the independent contractor" -- and I have a question for you,  
19 Steve, about that -- "and any employees of the contractor." So  
20 that's a separate question. "Consistent with all applicable  
21 laws, regulations and rules."

22 Could you not put a comma and say, including those  
23 associated with taxing, workers' compensation, et cetera? Then  
24 that way all we're saying is they need to be in compliance with  
25 all the laws, regulations and rules; but we're not spelling out



1 what they are. The other thing that I --

2 CHAIRMAN THOMPSON: Say that one more time.

3 MS. OSTERHAGE: So that sentence, if you changed small  
4 letter (i), it would incorporate (ii) and (iii), small letters,  
5 whatever that is. I guess that's small (i), (ii), (iii). If it  
6 said the independent contractor controls the hours and conditions  
7 of work of the independent contractor and any employees of the  
8 contractor consistent with all applicable laws, regulations and  
9 rules, comma, including those associated with taxing, workers'  
10 compensation, et cetera.

11 My opinion -- and I'm fine if there's not agreement. I  
12 understand that. I'm not looking for -- for all of that. I  
13 just -- I feel as though we are stepping across a line when we  
14 put ourselves out there as being a body that is trying to talk  
15 about taxing and workers' compensation. That is not our role.  
16 The folks at the Common Sense Initiative told us that that is not  
17 our place. We have no jurisdiction having to do with taxing, and  
18 so we should not be addressing it.

19 MR. TANEFF: I agree.

20 MS. OSTERHAGE: If I can just -- if you don't mind, hold on  
21 one second, Chuck.

22 Continuing it talks about, "The Board shall provide a form  
23 agreement" -- I'm under small letter (b) now -- "a form agreement  
24 that a salon owner and an individual may use to satisfy the  
25 requirements of this rule."

1 My suggestion is that the Board make available information  
2 and potentially -- I would be very careful about providing this  
3 form because an agreement like this could be legally binding.  
4 And so the Board -- are we putting ourselves in a place where  
5 we're suggesting something that becomes legally binding between  
6 an independent contractor and the owner of a salon? And does  
7 that put us in a position of responsibility? Whereas if we're  
8 just suggesting what the content of that form might be for that  
9 agreement and not requiring it, that probably is a safer place  
10 for the Board to be.

11 CHAIRMAN THOMPSON: Any other discussion?

12 MR. PENZONE: I would kind of agree with counsel and Member  
13 Osterhage. I think it's a slippery slope. I don't think we have  
14 any type of documentation similar to this for small independent  
15 salons that have to do this dance or other segments of the  
16 industry. And I think it's unfair, in particular, to the  
17 independent contractor. I mean, why should they have to be  
18 reminded of this when no one else in the industry does.

19 I just think it's discriminatory and I think it's unfair to  
20 the independent contractor that this would even be an issue.  
21 There's nothing that says all employees of salons must declare  
22 their tips or anything like that. It's the responsibility of  
23 each and every individual to abide by the law, and I don't think  
24 we're an agency that's charged with that mission.

25 CHAIRMAN THOMPSON: Any further discussion?

1 MS. OSTERHAGE: Just -- Chairman Thompson, just a question.  
2 Are there situations when there are -- when an independent  
3 contractor has an employee?

4 CHAIRMAN THOMPSON: Sure. Like there could be -- yeah.  
5 They have an assistant.

6 MS. OSTERHAGE: So they would become -- so the independent  
7 contractor would then be --

8 CHAIRMAN THOMPSON: The employer. The independent  
9 contractor --

10 MS. OSTERHAGE: So you can be both. You could be both.

11 CHAIRMAN THOMPSON: The independent contractor could be an  
12 independent contractor of the salon but then have an employee as  
13 an assistant -- employ an assistant.

14 MS. OSTERHAGE: Interesting. Okay.

15 MR. TANEFF: So -- Mr. Chairman, Ms. Osterhage, so would it  
16 be your suggestion that 4713-13-02 be modified for us to strike  
17 (b), bravo, (2)(a)(ii)(iii)?

18 MS. OSTERHAGE: Yes.

19 MR. TANEFF: And are you making that motion?

20 MS. OSTERHAGE: If that's where we are.

21 CHAIRMAN THOMPSON: I would like to table that.

22 MR. TANEFF: Well, before you table it, is it a motion  
23 that's being made?

24 MS. OSTERHAGE: Yes. I mean, I would make that motion that  
25 we strike (ii) and (iii) and add to (i) a comma at the end that

1 says: Including those associated with taxing, workers'  
2 compensation, insurance, anything else that needs to be added  
3 there.

4 MR. TANEFF: Second.

5 MR. HANKS: Well, that's not --

6 CHAIRMAN THOMPSON: You know what --

7 MR. HANKS: -- that's not a motion.

8 CHAIRMAN THOMPSON: That's not a motion.

9 MR. HANKS: It has got to be specific. I'm not going --

10 CHAIRMAN THOMPSON: We're not -- this would be --

11 MR. HANKS: -- to play that game again.

12 CHAIRMAN THOMPSON: This would be for discussion.

13 MS. OSTERHAGE: It's not a game.

14 CHAIRMAN THOMPSON: I'm having the same discussion you are.

15 MR. HANKS: I'm not talking about that.

16 CHAIRMAN THOMPSON: I'd like to see this again.

17 MS. OSTERHAGE: And I'm fine with that. I strike my motion.

18 I'm fine with that. I just -- we need to get this right.

19 CHAIRMAN THOMPSON: Okay.

20 MS. OSTERHAGE: And we need to be sure that it's the right  
21 thing for the industry. Let's get it right this time. So with  
22 that --

23 CHAIRMAN THOMPSON: We'll table this till next time.

24 MS. OSTERHAGE: Can I give you two more things to just think  
25 about?

1 CHAIRMAN THOMPSON: We'll talk later.

2 MS. OSTERHAGE: No. I'm fine. I just -- the only other  
3 question I have, on Page 2, small (g), is it realistic for an  
4 independent -- and this uses the word consultant. I don't know  
5 why it's consultant versus contractor, so I don't understand  
6 that. I don't know if that was the intention. But is it  
7 realistic for a person to come back to a salon or produce a  
8 document that's probably there, maybe locked up, within a half  
9 hour? I mean, they have 30 minutes to produce -- I mean, what if  
10 they're on vacation? That's just a question.

11 And the other one is under (C) and (3). Is it realistic,  
12 also, for -- if someone is not working and their area is locked  
13 and they're in Tahiti, I mean, is it realistic to expect that  
14 within an hour it's going to be unlocked? So -- and I know we've  
15 talked about this before. It's just -- I hope we're not putting  
16 a burden on the independent contractors to respond to something  
17 that they're not capable of. That's all.

18 CHAIRMAN THOMPSON: Okay.

19 MS. OSTERHAGE: And I would agree to table.

20 MR. PENZONE: And before we move on, where did this come  
21 from? I mean, I use independent contractors in all walks of  
22 life. In every field there are independent contractors. Why is  
23 this Board wanting to do all of this for independent contractors  
24 in our industry?

25 I mean, I literally employ hundreds of independent

1 contractors in all walks of life every year. And I'm sure not  
2 one of them has to deal with someone telling them what their  
3 responsibilities are, and what are the responsibilities of the  
4 people using them.

5 I'm just, you know -- I just can't understand why  
6 independent contractors -- and I'm supposed to be the guy on the  
7 Board that hates independent contractors for some reason. I  
8 can't understand why independent contractors have to jump through  
9 these hoops. And I don't know why -- whose idea is this?

10 MS. PEARSON: Member Penzone, members of the Board. This  
11 was put together under the previous administration, you know, the  
12 end of 2012, 2013, when the whole rules were under review; and  
13 everything was, you know, on the table to go through. And there  
14 were all those interested parties and meetings and groups. This  
15 was part of the change.

16 Part of this agreement came into play when the used-to-be  
17 licensee list that salons had -- you know, they would list their  
18 employees or their independent contractors or whomever was in the  
19 salon working. If they're an independent contractor or an  
20 employee, that list went out and that changed. And then  
21 somewhere down the line within these meetings, it was, "Well, how  
22 do we determine" to "let's put an independent contractor  
23 agreement together." This would help distinguish employees  
24 versus independent contractors for our inspection staff when  
25 they're going in to inspect and having to make determinations of,

1 you know, we have ten licenses on the wall, two people have  
2 independent contractors, the other eight -- five of them say they  
3 are an employee, the one -- it was just a determination to try to  
4 guide the process, and that's kind of where it all started.

5 MR. PENZONE: So if we wanted to, as a Board, a motion could  
6 be made to strike this in its entirety?

7 MS. PEARSON: That would be the Board's prerogative;  
8 however, we would want to be careful about the first portion  
9 where it talks about -- We'd have to make sure the only portion  
10 being stricken would be about the agreement because (A)(1),(2)  
11 and (3) speaks of the license and requirements.

12 MR. PENZONE: But everything below, everything in (B) and  
13 thereafter would be --

14 MR. TANEFF: Optional.

15 MS. PEARSON: It would --

16 MR. TANEFF: I think everything after (B)(2) is probably  
17 optional language.

18 MS. PEARSON: I would suggest making -- we'll go ahead with  
19 the tabling, make this a priority for review. Let Mr. McCarthy  
20 take a look and make sure what's going to be taken out, and then  
21 we can bring it back to you to look at.

22 MS. SHEIPLINE: Ms. Pearson?

23 MS. PEARSON: Yeah.

24 MS. SHEIPLINE: Can you answer for me, too, from a practical  
25 standpoint, when an inspector goes into a salon, what -- I think

1 we just need to consider what knowledge on here is absolutely  
2 crucial knowledge that that inspector would need to know and what  
3 is not.

4 CHAIRMAN THOMPSON: Let's make Meg Lamantia answer.

5 MS. LAMANTIA: Could you repeat the question again, Tasha?

6 MS. SHEIPLINE: When we're looking at this, and we'll say  
7 (b) and below -- for instance, when Member Osterhage brought up  
8 the fact that on (g) the owner or the independent consultant  
9 shall produce a document within a half hour of the request of the  
10 board inspector, what's the practicality of that? Like why would  
11 you need to see that document?

12 MS. LAMANTIA: See the contract of the independent  
13 contractor?

14 MS. SHEIPLINE: Uh-huh.

15 MS. LAMANTIA: Well, first and foremost, if they did have  
16 it, that would clearly prove that they were independent  
17 contractors.

18 MS. SHEIPLINE: Okay.

19 MS. LAMANTIA: Anything beyond that that's -- the main  
20 decision the inspector needs to make is if they're an employee or  
21 an independent contractor.

22 MS. SHEIPLINE: Okay. So just --

23 MS. LAMANTIA: Nothing in that contract is going to change.

24 MS. SHEIPLINE: Anything? Okay.

25 MR. PENZONE: You mean it doesn't make it safer for the



1 citizens of Ohio, this verbiage?

2 MS. LAMANTIA: No, probably not.

3 MR. PENZONE: And why do you need to prove they're an  
4 independent contractor if they -- they either have or don't have  
5 an independent contractor license. If they have an independent  
6 contractor license, they're an independent contractor.

7 MS. LAMANTIA: Right.

8 MR. PENZONE: If they don't, then they're not an independent  
9 contractor.

10 MS. LAMANTIA: Well, that's -- where the decision lies is if  
11 they are an independent contractor and they don't have an  
12 independent contractor's license.

13 MS. SHEIPLINE: Or perhaps don't realize that they are an  
14 independent contractor based on our --

15 MS. LAMANTIA: Right.

16 MS. SHEIPLINE: Okay. So then that -- the contractor would,  
17 you know, make that decision. Oh, you pay your own taxes. Then  
18 you are. Whether -- a lot of it boils down to if there's  
19 workers' comp available in the salon, that's a good determining  
20 factor that they are employees. If there's no workers' comp  
21 available, it gets to be argumentative between the stylist and  
22 the owner. Well, you pay your own taxes and you're an  
23 independent contractor. So it can be a determining tool.

24 At this point, we've enforced it for 12 years or more,  
25 independent contractors. I think people pretty much know what

1 they are. Whether or not they choose to get their license is  
2 another thing.

3 MS. SHEIPLINE: So essentially without having two pages  
4 of --

5 MS. LAMANTIA: Contracts.

6 MS. SHEIPLINE: -- of contract contents. I mean, it could  
7 be as simple as a check box that says, "I do understand that I am  
8 an independent contractor" as part of --

9 MR. PENZONE: And subject to the laws -- the federal and  
10 state laws relative to whatever.

11 MS. LAMANTIA: Right.

12 CHAIRMAN THOMPSON: In what form?

13 MS. LAMANTIA: Like Tasha said, just like a check-box type  
14 of form.

15 CHAIRMAN THOMPSON: We had that before, the licensee list.

16 MS. LAMANTIA: Well, that was a licensee list.

17 MR. PENZONE: I really think that this whole thing, we are  
18 overstepping --

19 MR. TANEFF: Totally.

20 MR. PENZONE: -- absolutely overstepping what we're here  
21 for. I don't remember ever seeing in our job description, as a  
22 Board, that we have to police --

23 MR. TANEFF: Micromanage.

24 MR. PENZONE: -- police the industry and make sure someone  
25 is paying their taxes and has workers' compensation. That's not

1 what --

2 Counsel, are we here for that or are we supposed to be  
3 making sure the citizens of Ohio are safe and sound and --

4 MR. MCCARTHY: The Board only has the powers to converse by  
5 statute, and this needs to be a priority for me to review.

6 MR. PENZONE: Thank you.

7 So we're moving on and we're going to table this till next  
8 month?

9 Thank you.

10 CHAIRMAN THOMPSON: Next agenda item under unfinished  
11 business is 4713-5-20, Duties of Instructors. And I'll let  
12 Ms. Pearson and Board Member Hanks --

13 MS. PEARSON: 4713-5-20, Duty of Instructors. This is the  
14 rule that I talked about at last month's board meeting. It is  
15 also a new rule that was enacted February of 2014. This rule was  
16 voted on in the package in November of 2012, in the rules  
17 package, along with 5-17.

18 So this rule makes it so that a person holding an  
19 instructor's license must also maintain in good standing their  
20 managing license in that branch of cosmetology. So if you have a  
21 cosmetology instructor's license, then they would also need to  
22 maintain in good standing their managing cosmetology license.

23 Previously this rule -- prior to the change, it did not ever  
24 say anything about somebody having to maintain their manager's  
25 license along with their instructor's license.

1           So it's a large change, and that would make a big impact on  
2 instructors that maybe have worked at a school for many years and  
3 they only work in a school of cosmetology. So maybe they have  
4 not maintained their managing license. And with renewals  
5 approaching -- very quickly approaching, we needed to respond to  
6 this new rule so that we could put things in place to make sure  
7 the instructors are aware of this situation and help them with  
8 getting their managing license, if needed, to come into a good  
9 standing status.

10           MR. TANEFF: How do you define "good standing"?

11           MS. PEARSON: So, Member Taneff, good standing is actually  
12 not used throughout our statute or code. We use the wording  
13 "current and active" to describe if something is in good  
14 standing. If you would ask a staff member, anybody, what is good  
15 standing, we would tell you it's not lapsed, it's current and  
16 active.

17           MR. TANEFF: Wouldn't it make more common sense to strike  
18 the whole first sentence and simply leave it with: "The  
19 instructors shall only teach in those areas in which the  
20 instructor is licensed"?

21           MS. SHEIPLINE: The only exception would be you can  
22 interpret that like I have a cosmetology instructor license, so  
23 would you -- she is saying I need my cosmetology license and my  
24 cosmetology instructor's license. So I mean, I can argue, well,  
25 I have a cosmetology instructor's license; so, therefore, I'm

1 licensed. Does that make sense?

2 MS. PEARSON: This rule also goes on in the continuing  
3 education section to state that an instructor may allow the  
4 managing license to be escrowed if the instructor is only  
5 teaching cosmetology or a branch of cosmetology.

6 So they could -- according to this rule, they can escrow  
7 their license; but it would still have to be in good standing or  
8 current and active because a license can actually lapse in  
9 escrow, as well as, you know, just --

10 MR. TANEFF: But, again, I'm not in this industry. I'm  
11 looking and reading and rereading and rereading the first  
12 sentence, and it just doesn't make any sense to me. "A licensed  
13 instructor in cosmetology or a branch of cosmetology shall  
14 maintain good standing in the branch of cosmetology in which the  
15 instructor is licensed."

16 What are you guys trying to say here?

17 MR. HANKS: You have to have a license to teach.

18 MR. TANEFF: So why don't you just say that?

19 MR. HANKS: This was a rule voted on before I was on this  
20 Board, so don't look at me.

21 I think it's -- there are a couple things that bother me  
22 about this. And it -- if I compare it to I have a cosmetology  
23 license but I want to do a manicuring service, I'm actually not  
24 allowed to maintain a manicuring license with my cosmetology  
25 license. The law says in the case of an applicant for an initial

1 cosmetology instructor license, an initial cosmetology instructor  
2 license holds a current valid managing cosmetologist license. So  
3 the first time you get your instructor's license, you've got to  
4 have the manager's license. What's the point of maintaining both  
5 if you're not going to be working in a salon?

6 MS. OSTERHAGE: Can I ask -- because I think we're just  
7 clarifying the licenses and the way they work and what supercedes  
8 what. As I understand it -- and please correct me if I'm  
9 wrong -- if I have a basic cosmetology license and I get a  
10 manager's license, my manager's license supercedes the basic  
11 license; therefore, that's what I keep active.

12 If I'm an independent contractor, I'm required to have a  
13 manager's license to get my independent contractor's license; but  
14 I have to maintain both. Is that correct?

15 MS. PEARSON: That's correct.

16 MS. OSTERHAGE: If I'm an instructor today or not today --  
17 the way the rule is written today, you would be -- an instructor  
18 would be treated exactly like an independent contractor, which is  
19 I have to have my manager's license and my instructor's license  
20 and they both need to be valid. So it would be just like an  
21 independent contractor, basically.

22 And I think that's what the rule says today, that  
23 instructors -- and here's the other thing, not to make it more  
24 complicated; but those are people who are supervising students on  
25 a clinic floor. And if they're supervising students on a clinic

1 floor, probably the most at-risk group of people when it comes to  
2 posing risk to the public, they should have to have that  
3 manager's license. If it's credible for me and my salon and  
4 people have to have that to supervise others, then certainly when  
5 there are clinic activities going on, I think it's very, very  
6 important that they also be subject to that and keep that  
7 manager's license intact. So this is sort of a double-headed  
8 thing. And I think we have to be consistent, whatever it is we  
9 do. We have to be consistent.

10 MR. HANKS: But we also have to amplify the law, and I feel  
11 like this does not amplify the law the way it's written.

12 MS. OSTERHAGE: How would you suggest that it be written?

13 MR. HANKS: Well, what I would like to see -- I don't think  
14 you sent me the way this was prior, did you?

15 MS. PEARSON: I believe I --

16 MR. HANKS: You probably did. I just --

17 MS. PEARSON: I believe I did, but it had nothing --  
18 previously 5-20, it said nothing about maintaining any type of  
19 license. It did not speak of that at all.

20 MR. PENZONE: Well, how would you amplify it? I mean, how  
21 would you amplify the law here?

22 MR. HANKS: By not requiring the manager's license to be  
23 maintained after the initial instructor's license.

24 MR. PENZONE: I think no manager license should be  
25 maintained, and I might be all for that. I couldn't agree with

1 you more. It's the most ludicrous thing in the beauty industry  
2 today --

3 MR. HANKS: Well, you're twisting my words.

4 MR. PENZONE: -- along with the independent contractor's  
5 license.

6 You're getting this all down on the record, right?

7 So in a salon, you have to have a manager's license; but you  
8 don't need one in a school.

9 MR. HANKS: You have one.

10 MR. PENZONE: To begin with?

11 MR. HANKS: Yes. And if you want to work in a salon, you  
12 have to maintain both, which I think is ludicrous. If you have  
13 an instructor's license, that shows you had the manager's  
14 license. Whether you should have to maintain it, I think you  
15 should be able to go work in a salon under an instructor's  
16 license because you've already proven that you had the manager's  
17 license.

18 MR. PENZONE: So once you become --

19 MR. HANKS: I don't think an independent contractor should  
20 have to do both.

21 MR. PENZONE: So once you become an independent contractor,  
22 after the first year, you've already proven you've had a  
23 manager's license. So you don't have to maintain a manager's  
24 license once you have your independent contractor's license,  
25 right?



1 CHAIRMAN THOMPSON: Well, your manager's license -- your  
2 1,500-hour license has been replaced by a manager's license so  
3 you don't have two. You don't get your cosmetology license, then  
4 you get your manager's license and maintain two licenses. Your  
5 manager's license replaces -- supercedes.

6 MS. OSTERHAGE: But you don't have that with the independent  
7 contractors. You're maintaining two licenses.

8 CHAIRMAN THOMPSON: Right.

9 MS. OSTERHAGE: You're maintaining a manager's license and  
10 an independent contractor's license.

11 MS. BENFER: Just like a managing cosmetologist has to to  
12 work in a salon.

13 MR. PENZONE: So why should an instructor be under the same  
14 guidelines?

15 MS. OSTERHAGE: I think the ramifications of all of this,  
16 obviously, is we're talking about a group of people who have not  
17 kept a manager's license out of escrow. It's not active as per  
18 the definition, "current and active." So that -- I mean, we're  
19 dealing with a whole group of people that don't have current,  
20 active manager's licenses.

21 CHAIRMAN THOMPSON: They have an active instructor's  
22 license.

23 MS. OSTERHAGE: Correct. And I think it's really important  
24 that we think very seriously about the fact that they are  
25 supervising students in a clinic situation, which is no different

1 than the salon environment in terms of the activities -- the  
2 things that they're doing.

3 So if my employees have to have that manager's license, then  
4 I think the instructors should as well. If they're supervising  
5 or managing, if they're the manager, there should be at least one  
6 person with an active manager's license in a --

7 MR. HANKS: By definition, all of them have their manager's  
8 license. The instructor's license supercedes the manager's  
9 license.

10 MS. OSTERHAGE: No.

11 MR. HANKS: Just like a cosmetology license supercedes a  
12 manicuring or esthetic's license. If you're a cosmetologist, you  
13 can do any of these things. If you're an instructor, you are a  
14 manager.

15 MS. OSTERHAGE: You have to show that to me, where that is  
16 in the Ohio Revised Code, because I've never ever seen anything  
17 that says that the instructor's license supercedes other  
18 licenses.

19 MR. HANKS: It says -- 4713.31, Qualifications for  
20 instructor license. This is (E): "In the case of a" -- I mean,  
21 just (E).

22 4713.31 (E): "In the case of an applicant for an initial  
23 cosmetology instructor license." I'd be interested in  
24 Mr. McCarthy's opinion on what "initial" means.

25 MR. MCCARTHY: That's the million dollar question. And it

1 only has the powers to infer by statute. You know, those are  
2 great aims that you want to keep folks to a high standard when  
3 they renew licenses; and yeah, you would want them to keep their  
4 specific branch license, not just in escrow. There's no  
5 definition to good standing, but all you have is "initial"  
6 license. So, subsequently, there's nothing that speaks to that  
7 that I'm aware of at this time.

8 So there's a lot that is not satisfied by the statute. And  
9 as is now, there are certainly arguments that you can make that  
10 after that initial phase of the instructor license, maybe that  
11 standard that Ms. Osterhage is talking about isn't the standard.

12 So it's up to the Board to decide what it wants as the  
13 standard, but that standard still has to comply with the statute.  
14 And right now you have rules that certainly could be more clear.  
15 And I would be very careful to make rules that go beyond what the  
16 statute authorizes because you simply cannot do that.

17 MS. OSTERHAGE: This would be another one of those  
18 situations where I think having more information, like having the  
19 Ohio Revised Code that's applicable -- having all of that in  
20 front of us, if we had the old language, that would be good. I  
21 understand it's not much, but it would be good to have that. I  
22 think that we all need to educate ourselves and read the  
23 information and then -- and be prepared to just discuss. This is  
24 important.

25 MR. MCCARTHY: And the Board will face challenges from folks

1 that may not want to keep their licenses at a certain level after  
2 that initial phase if the Board does go on and starts changing  
3 different rules. So just keep that in mind.

4 MR. PENZONE: But in the public sector, you have your  
5 certified teacher.

6 MS. SHEIPLINE: Yeah. A license from the Ohio Department of  
7 Education, an instructor's license from the Board of Cosmetology  
8 and a managing cosmetologist license.

9 MR. PENZONE: And a managing cosmetologist license. I think  
10 that's fair.

11 MR. HANKS: The underlying issue here -- we can debate this  
12 all day I'm sure; but the underlying issue is that when this  
13 renewal period starts, we're going to have people that are going,  
14 "Wait, well, I didn't have my license in good standing. I don't  
15 even know what good standing means."

16 So we've got to decide for this upcoming renewal period. I  
17 think we need to look at ways to alleviate that strain that is  
18 inevitable. Whether it's changing the rule or not at this point,  
19 I don't care; but we've got to do something or we're going to be  
20 putting our staff and a lot of instructors at risk.

21 MS. SHEIPLINE: If we do change the rule, I feel like it's  
22 our, you know -- if the law or the rules should have been a  
23 specific way, which I have always interpreted them that I had to  
24 have my managing cosmetologist license active, you know -- that's  
25 how I've always interpreted it; but for those who haven't, it's

1 our failure, as the Board, that we haven't kept up on that. So  
2 we should not punish these people who have not kept theirs in  
3 good standing.

4 I feel like they should have a waiver. They should not have  
5 to retest. They should not have, you know, an exorbitant fine or  
6 anything like that, pay your \$45 and get that license back in  
7 good standing, because it was a failure on our part to make that  
8 happen all along if that's the case.

9 MS. OSTERHAGE: I would agree. I would never -- punishing  
10 them would be very inappropriate; but I still before -- if we  
11 decide to do a waiver, whatever you want to call it, I still  
12 would like more information.

13 For example, has it always been this way? I mean, the  
14 manager's license has been around since, what, 1932, whenever it  
15 was. Has it always been that way? Did it get changed? I mean,  
16 if someone could recreate some history for us, I think it's  
17 really relevant to any decision that we're going to make. I  
18 would like more information.

19 MS. PEARSON: Member Osterhage, in the past the Board did  
20 not monitor the instructor -- somebody holding an instructor's  
21 license renewing their managing license. It was nothing that we  
22 monitored. When an inspection would take place -- when an  
23 inspector would go into a school, they would look for current,  
24 active instructors. If they go into a salon, they look for their  
25 managing or their practicing license. If they go into a school,

1 they have an instructor with a valid or an active instructor's  
2 license. They don't, then, look up or ask if their managing  
3 license is current and -- current and active.

4 That has not been the practice until this rule was voted on  
5 and put in place in November of 2012 and then active this year.  
6 So with renewals approaching, as Member Hanks stated, we know if  
7 this is something that's in our administrative code and if it's  
8 something that we need to enforce. It's something we need to let  
9 people know during this renewal, and that's why it's important to  
10 get this right now.

11 CHAIRMAN THOMPSON: I think we need to see the old rule,  
12 wouldn't you agree?

13 MS. OSTERHAGE: I don't -- I'm not about fining, penalizing,  
14 putting anybody in harm's way. And I agree with you, Tasha. I  
15 think this is our responsibility. However, we have to educate,  
16 we need more information, we need to be able to look at it and, I  
17 think, think about it. So is there some way, Chairman Thompson,  
18 that we can --

19 CHAIRMAN THOMPSON: Well, our next month's meeting is a  
20 short one because of the training afterward. I would like to  
21 make, with the consent of the Board, this item right here the  
22 priority for next month.

23 MS. OSTERHAGE: I would agree.

24 CHAIRMAN THOMPSON: Do you guys agree?

25 MS. SHEIPLINE: Yes.

1 MS. OSTERHAGE: Pending --

2 CHAIRMAN THOMPSON: If we come here and work out one thing,  
3 I want it to be this one right here.

4 MS. OSTERHAGE: -- pending information from Ms. Pearson. I  
5 feel like we need the old stuff, the new stuff, and certainly the  
6 law, the Ohio Revised Code, that's applicable, please.

7 CHAIRMAN THOMPSON: Yeah. If we could get one thing  
8 accomplished next month, it's this one right here.

9 MS. OSTERHAGE: All right.

10 CHAIRMAN THOMPSON: Is everyone okay with that?

11 MS. SHEIPLINE: Would -- Mr. McCarthy, would you have a  
12 recommendation or would you like to look at this and come back  
13 with a recommendation of what you think?

14 MR. MCCARTHY: I'll have one prepared, ma'am.

15 MS. SHEIPLINE: We would like your legal advice for sure.

16 MR. HANKS: Keep in mind -- I guess I would recommend that  
17 we all keep in mind that this last group of rules that was  
18 changed took from November of 2012 to February of '14 to go in.  
19 So if we vote on a rule change next month, it takes time to get  
20 that in place. So we still may have to go down the waiver route  
21 to make sure that this isn't a horribly confusing renewal.

22 MS. PEARSON: Member Hanks, you're absolutely correct,  
23 because our renewal opens October 8th, so -- okay.

24 CHAIRMAN THOMPSON: Okay. You guys good with that?

25 MR. HANKS: Yep.

1 CHAIRMAN THOMPSON: All right. Moving on to new business.  
2 We have a proposed resolution from our Attorney General, and I  
3 think you guys have that it's about an injunction. And I will  
4 turn this over to our legal counsel.

5 MR. MCCARTHY: It's come to the attention of my office that  
6 there's two pending matters that have been referred to the  
7 prosecutors, one in Girard and one in Warren County -- I mean,  
8 one in Girard and one in Warren. It's regarding an expired  
9 license. The name of the business is Tropitan Tanning Centers.

10 Both court cases have been going on for a little bit of  
11 time, specifically the case in Girard. The company's corporate  
12 status is no longer good, so they're no longer a corporation  
13 anymore. There has been much back and forth between who is the  
14 true owner, the previous licensee who's on file with the State  
15 Board whose license expired or his son. So the municipal court  
16 judge got down to the bottom of that, and it is the son's  
17 business as of now. And, again, there's no active corporate  
18 status.

19 So at this time the recommendation would be that the Board  
20 consider approving the resolution for the filing of an injunction  
21 so that the Girard location cannot operate without a license.  
22 And the reasons are health and safety and compliance with Ohio  
23 law. There's previous unsatisfied board orders that are out  
24 there right now against the Girard location.

25 So what this would entail would be the Board voting. If the



1 Board approves the request that the Attorney General's office  
2 file the injunction, then that would be up to Mr. DeWine to  
3 approve or deny the filing of it. I feel comfortable that  
4 permission will be granted. I would have to give prior notice to  
5 Tropitan and the current owner, Mr. Steven T. Miller.

6 And that's why we're also not in executive session right now  
7 either, because this would be public record. Tanning facilities  
8 have to comply with Ohio law. They have to have licenses. And  
9 this location was recently investigated by one of your inspectors  
10 and evidence was taken; and it shows that certainly the facility  
11 is still in operation, no question about it. And again, the  
12 previous board order that was issued last summer still has not  
13 been satisfied.

14 MR. PENZONE: So, Counsel, if I were to make a motion to  
15 that effect, it would be to adopt Board Resolution 2014-001 ORC  
16 4713.3 -- or 13?

17 MR. MCCARTHY: .13.

18 MR. PENZONE: .13. What'd I say?

19 Well, I would move that we do that.

20 MS. SHEIPLINE: Second.

21 CHAIRMAN THOMPSON: Any discussion? Do we need to sign  
22 this?

23 MR. MCCARTHY: The vote could be on the record, and it can  
24 be verified by Ms. Flanery and signed by your Executive Director.  
25 And I will use this as part of the filing of the injunction, but

1 simply an oral vote will suffice.

2 CHAIRMAN THOMPSON: Any more discussion?

3 Roll call, please.

4 MS. FLANERY: Mr. Thompson?

5 CHAIRMAN THOMPSON: Yes.

6 MS. FLANERY: Mr. Taneff?

7 MR. TANEFF: Yes.

8 MS. FLANERY: Mr. Hanks?

9 MR. HANKS: Yes.

10 MS. FLANERY: Ms. Osterhage?

11 MS. OSTERHAGE: Yes.

12 MS. FLANERY: Mr. Penzone?

13 MR. PENZONE: Yes.

14 MS. FLANERY: Ms. Sheipline?

15 MS. SHEIPLINE: Yes.

16 MS. FLANERY: Ms. Benfer?

17 MS. BENFER: Yes.

18 CHAIRMAN THOMPSON: Executive Director, do you have a  
19 renewal update?

20 MS. PEARSON: As of date, we are on track for getting things  
21 in order for our renewal time. This month, in August, we're  
22 working on the online renewal questions that will be available  
23 for licensees to answer when they're doing their online renewal.

24 And then in September -- on September, the 15th, the online  
25 renewal will close for updates; and it will reopen, as I stated,

1 on October the 8th when our online renewal actually begins.

2 We will be -- several staff members will be available at the  
3 hair show in October helping our licensees with renewals, with  
4 questions. We will be offering continuing education classes on  
5 some of our rules and things of that nature. So we're on track  
6 so far except for the pending 5-20 question.

7 CHAIRMAN THOMPSON: Do we have a motion to adopt Board  
8 Enforcement's Notice of Violations 1 through 21?

9 MS. OSTERHAGE: So moved.

10 MR. TANEFF: Second.

11 CHAIRMAN THOMPSON: Any discussion?

12 Roll call, please.

13 MS. FLANERY: Mr. Hanks?

14 MR. HANKS: Yes.

15 MS. FLANERY: Mr. Taneff?

16 MR. TANEFF: Yes.

17 MS. FLANERY: Mr. Penzone?

18 MR. PENZONE: Yes.

19 MS. FLANERY: Ms. Osterhage?

20 MS. OSTERHAGE: Yes.

21 MS. FLANERY: Ms. Benfer?

22 MS. BENFER: Yes.

23 MS. FLANERY: Ms. Sheipline?

24 MS. SHEIPLINE: Yes.

25 MS. FLANERY: Mr. Thompson?

1 CHAIRMAN THOMPSON: Yes.

2 Do we have a motion to adopt the Approval of Settlement  
3 Agreements 22 through 76?

4 MS. OSTERHAGE: So moved.

5 MR. TANEFF: Second.

6 CHAIRMAN THOMPSON: We have a first and second. Any  
7 discussion?

8 Roll call, please.

9 MS. FLANERY: Mr. Hanks?

10 MR. HANKS: Yes.

11 MS. FLANERY: Mr. Taneff?

12 MR. TANEFF: Yes.

13 MS. FLANERY: Mr. Penzone?

14 MR. PENZONE: Yes.

15 MS. FLANERY: Ms. Osterhage?

16 MS. OSTERHAGE: Yes.

17 MS. FLANERY: Ms. Benfer?

18 MS. BENFER: Yes.

19 MS. FLANERY: Ms. Sheipline?

20 MS. SHEIPLINE: Yes.

21 MS. FLANERY: Mr. Thompson?

22 CHAIRMAN THOMPSON: Yes.

23 Any further business?

24 MR. HANKS: Move to adjourn.

25 CHAIRMAN THOMPSON: We have a motion to adjourn.

1 MR. PENZONE: Second.

2 CHAIRMAN THOMPSON: Second.

3 Roll call, please.

4 MS. FLANERY: Mr. Hanks?

5 MR. HANKS: Yes.

6 MS. FLANERY: Mr. Taneff?

7 MR. TANEFF: Yes.

8 MS. FLANERY: Mr. Penzone?

9 MR. PENZONE: Yes.

10 MS. FLANERY: Ms. Osterhage?

11 MS. OSTERHAGE: Yes.

12 MS. FLANERY: Ms. Benfer?

13 MS. BENFER: Yes.

14 MS. FLANERY: Ms. Sheipline?

15 MS. SHEIPLINE: Yes.

16 MS. FLANERY: Mr. Thompson?

17 CHAIRMAN THOMPSON: Yes.

18 - - -

19 And, thereupon, the hearing was concluded at 2:28 o'clock

20 p.m.

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C-E-R-T-I-F-I-C-A-T-E

I do hereby certify that the foregoing is a true,  
correct and complete written transcript of the proceedings in  
this matter, taken by me on the \_\_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_, and transcribed from my  
stenographic notes.

\_\_\_\_\_  
Jillian Vogel  
Professional Reporter  
and Notary Public in and for the  
State of Ohio

My commission expires: 2-13-16.

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